

Contract Number: 2547

Vendor: YMCA

Subject: Concession Agreement

Department: Parks

File Class: LEG 12-1

Begin Date: 12/06/1984

End Date: 01/20/2015

Review Date: 06/01/2014

Vault Date:

Comments: Amendment #1-9/90 #2-8/02 #3-2/09 & Reimbursement
Agreement for 2009 Staffing
Option to renew for 2 ten yr terms
Negotiations to begin 7/1/2014

**CONCESSION MODIFICATION AGREEMENT NO. 3
BETWEEN THE CITY OF BREMERTON AND
KITSAP YMCA**

THIRD AMENDMENT TO KITSAP YMCA CONCESSION AGREEMENT

DATE JANUARY 21, 2009

THIS CONTRACT MODIFICATION AGREEMENT SPECIFICALLY AMENDS THE KITSAP YMCA CONCESSION AGREEMENT (the "Contract") entered into between the City of Bremerton and Kitsap Family YMCA on December 6, 1984, which agreement was amended on September 19, 1990 and August 7, 2002. All provisions in the concession agreement shall remain in full force and effect except as expressly modified by this document.

For valuable consideration and by mutual consent of the parties, the modifications to the Concession Agreement are as follows:

I.

Section 8a, is modified as follows:

8. CONCESSION CONSIDERATION FEES AND COSTS:

a. It is agreed and understood that the YMCA shall pay to City an annual concession fee in the amount of \$25,000.00. The annual concession fee shall be computed and paid quarterly by the YMCA within thirty (30) days after expiration of each quarter. This fee shall be adjusted on April 1 of each year based on the annual change in the Consumer Price Index (CPI-U) as published by the Bureau of Labor Statistics for the U.S. Department of Labor for the Seattle Metropolitan statistical area (1982-84=100), as published for the month of January of the prior year; providing the percentage increase for any single year shall not exceed seven percent (7%). The first adjustment shall not occur until January, 1992. Except that the City shall not collect a CPI adjustment to the current concession amount beginning in 2010 and until such time as the amounts that would have been collected by the CPI adjustments cumulatively reach the \$6,000.00 paid to the City by the YMCA pursuant to the Kitsap YMCA/Jarstad Aquatic Center Reimbursement Agreement.

This document will become a supplement of the contract and all provisions will apply hereto. It is understood that this Concession Modification shall be effective when approved by the City of Bremerton.

The parties whose names appear below warrant that they are authorized to enter into a concession modification that is binding on the parties of this agreement.

IN WITNESS WHEREOF, the parties have executed this Concession Modification on the day and year first written above.

KITSAP FAMILY YMCA

By Glen Godfrey
Its Executive Director

DATE: 1/29/09

APPROVED AS TO FORM:

[Signature]
Bremerton City Attorney

NOTICES TO BE SENT TO:

THE CITY OF BREMERTON

By Cary Bozeman
Its Mayor

DATE: 2/4/09

ATTEST:

[Signature]
City Clerk

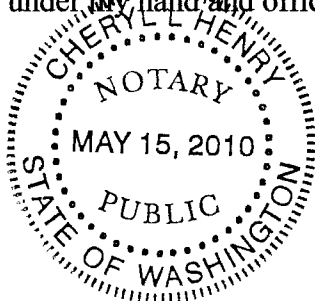
NOTICES TO BE SENT TO:

Mr./Mrs.
Title
City of Bremerton Engineering Department
Address 1
Address 2
Phone/Fax

STATE OF WASHINGTON)
) ss.
COUNTY OF KITSAP)

On this day, before me, Cary Bozeman, Mayor of the City of Bremerton, the municipal corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute the instrument on behalf of said municipal corporation.

GIVEN under my hand and official seal this 4th day of February, 2009.



Cheryl L. Henry
Notary Public in and for the State of
Washington, residing at Bremerton
My appointment expires: 5/15/2010

STATE OF WASHINGTON)
) ss.
COUNTY OF KITSAP)

On this day, before me, Glen Godfrey, Executive Director of the Kitsap Family YMCA, the organization that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said organization, for the uses and purposes therein mentioned, and on oath stated that (s)he was authorized to execute the said instrument on behalf of said organization.

GIVEN under my hand and official seal this 29th day of January, 2009.



Cheryl L. Henry
Notary Public in and for the State of
Washington, residing at Bremerton
My appointment expires: 5/15/10

KITSAP YMCA / JARSTAD AQUATIC CENTER
REIMBURSEMENT AGREEMENT

THIS AGREEMENT entered into by and between the City of Bremerton, a municipal corporation organized under the laws of the State of Washington (hereinafter referred to as "City"), and the Kitsap Family Young Men's Christian Association, an operating branch of the Armed Services YMCA of the USA (hereinafter referred to as "YMCA").

WITNESSETH:

WHEREAS, City owns and operates the Glenn Jarstad Aquatic Center; and

WHEREAS, City provides access to the Aquatic Center for YMCA members during public hours of operation; and

WHEREAS, reductions in the City's 2009 part-time labor budget have resulted in the elimination of Saturday and Sunday operation of the Aquatic Center; and

WHEREAS, the City and YMCA wish to enter into an agreement that would restore Saturday and Sunday programming at the Aquatic Center mutually benefiting YMCA members and the general public;

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, the parties agree as follows:

1. City agrees to operate the Jarstad Aquatic Center Saturdays and Sundays during the 2009 calendar year and to continue to make the facility available for YMCA member and general public use during public hours of operation, currently 12:00 PM – 3:30 PM, under the conditions, policies and procedure established by the City of Bremerton Parks & Recreation Department.

2. The YMCA agrees to reimburse the City **\$6,000.00** to pay the net cost of staffing the Aquatic Center on Saturdays and Sundays in 2009. In exchange, the YMCA will receive future credit through partial reduction in the annual CPI adjustment identified in Amendment #3 attached hereto as Exhibit A. The reimbursement payment shall be paid as a lump sum to the City within the 2009 calendar year. This agreement may be terminated by either party with thirty (30) days written notice, with the City reimbursing the YMCA for the unused portion of the reimbursement payment prorated monthly.

3. All other terms and conditions of the Kitsap YMCA Concession Agreement effective December 6, 1984 and as amended shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth below.

CITY OF BREMERTON

By:  DATE: 2/4/09
CARY BOZEMAN, Mayor

KITSAP FAMILY YMCA

By:  DATE: 1/29/09
GLEN GODFREY, Executive Director

STATE OF WASHINGTON)
) ss.
COUNTY OF KITSAP)

On this day, before me, Cary Bozeman, Mayor of the City of Bremerton, the municipal corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute the instrument on behalf of said municipal corporation.

2009. GIVEN under my hand and official seal this 4th day of February



Cheryl L. Henry
Notary Public in and for the State of
Washington, residing at Bremerton
My appointment expires: 5/15/2010

STATE OF WASHINGTON)
) ss.
COUNTY OF KITSAP)

On this day, before me, Glen Godfrey, Executive Director of the Kitsap Family YMCA, the organization that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said organization, for the uses and purposes therein mentioned, and on oath stated that (s)he was authorized to execute the said instrument on behalf of said organization.

2009. GIVEN under my hand and official seal this 29th day of January



Cheryl L. Henry
Notary Public in and for the State of
Washington, residing at Bremerton
My appointment expires: 5/15/10

**GLENN JARSTAD AQUATIC CENTER
WEEKEND STAFF COST CALCULATION WORKSHEET**

Day	Program	Time	2009
Saturday	Adult Lap	Noon-1:30PM	50 Days
Saturday	Public Swim	1:30-3:30PM	50 Days
Total Staff Cost =			\$ 6,335.51

Day	Program	Time	2009
Sunday	Adult Lap	Noon-1:30PM	49 Days
Sunday	Public Swim	1:30-3:30PM	49 Days
Total Staff Cost =			\$ 6,208.80

Total Weekend Staff Cost =	\$ 12,544.31
Rounded Amount =	\$12,500.00

Projected Revenue 2009

(Adult Lap and Public Swim)

Saturday	\$	3,500.00	
Sunday	\$	3,000.00	
Total	\$	6,500.00	→ \$ 6,500.00

YMCA Portion =	\$6,000.00
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**GLENN JARSTAD AQUATIC CENTER
STAFF COST SUMMARY**

(City provides staffing for Public programs and YMCA rentals)

Day	Time	Program	# Hours
Saturday	Noon-1:30PM	Adult Lap Swim	1.5
	1:30-3:30PM	Public Swim	2.0
		Open/Close	0.25
Total Hours			3.75

Position	Hours Worked	Rate per Hour	Base Expense	FICA, L&I, Other	Total Cost	Days per Year	Hours per Day	Hours per Year
Senior Guard	3.75	\$10.26	\$38.48	\$10.39	\$48.86			
Lifeguard #1	3.75	\$8.59	\$32.21	\$8.05	\$40.27			
Lifeguard #2	3.50	\$8.59	\$30.07	\$7.52	\$37.58			
Totals	11.00	\$27.44	\$100.75	\$25.96	\$126.71	50	3.75	187.50

Annual Saturday Staff Cost: \$6,335.51

Day	Time	Program	# Hours
Sunday	Noon-1:30PM	Adult Lap Swim	1.5
	1:30-3:30PM	Public Swim	2.0
		Open/Close	0.25
Total Hours			3.75

Position	Hours Worked	Rate per Hour	Base Expense	FICA, L&I, Other	Total Cost	Days per Year	Hours per Day	Hours per Year
Senior Guard	3.75	\$10.26	\$38.48	\$10.39	\$48.86			
Lifeguard #1	3.75	\$8.59	\$32.21	\$8.05	\$40.27			
Lifeguard #2	3.50	\$8.59	\$30.07	\$7.52	\$37.58			
Totals	11.00	\$27.44	\$100.75	\$25.96	\$126.71	49	3.75	183.75

Annual Sunday Staff Cost: \$6,208.80

Annual Weekend Staff Cost: \$12,544.30

Rounded Amount: \$ 12,500.00

Projected Revenue 2009

(Public Programs)

Saturdays	\$3,500.00
Sundays	\$3,000.00
Total Rev.	\$6,500.00

2009 Weekend Staff Cost:	\$12,500.00
2009 Weekend Revenue:	\$6,500.00
YMCA Payment:	\$6,000.00

**CONCESSION MODIFICATION AGREEMENT NO. _____
BETWEEN THE CITY OF BREMERTON AND
KITSAP YMCA**

THIRD AMENDMENT TO KITSAP YMCA CONCESSION AGREEMENT

DATE JANUARY 21, 2009

THIS CONTRACT MODIFICATION AGREEMENT SPECIFICALLY AMENDS THE KITSAP YMCA CONCESSION AGREEMENT (the "Contract") entered into between the City of Bremerton and Kitsap Family YMCA on December 6, 1984, which agreement was amended on September 19, 1990 and August 7, 2002. All provisions in the concession agreement shall remain in full force and effect except as expressly modified by this document.

For valuable consideration and by mutual consent of the parties, the modifications to the Concession Agreement are as follows:

I.

Section 8a, is modified as follows:

8. CONCESSION CONSIDERATION FEES AND COSTS:

a. It is agreed and understood that the YMCA shall pay to City an annual concession fee in the amount of \$25,000.00. The annual concession fee shall be computed and paid quarterly by the YMCA within thirty (30) days after expiration of each quarter. This fee shall be adjusted on April 1 of each year based on the annual change in the Consumer Price Index (CPI-U) as published by the Bureau of Labor Statistics for the U.S. Department of Labor for the Seattle Metropolitan statistical area (1982-84=100), as published for the month of January of the prior year; providing the percentage increase for any single year shall not exceed seven percent (7%). The first adjustment shall not occur until January, 1992. Except that the City shall not collect a CPI adjustment to the current concession amount beginning in 2010 and until such time as the amounts that would have been collected by the CPI adjustments cumulatively reach the \$6,000.00 paid to the City by the YMCA pursuant to the Kitsap YMCA/Jarstad Aquatic Center Reimbursement Agreement.

This document will become a supplement of the contract and all provisions will apply hereto. It is understood that this Concession Modification shall be effective when approved by the City of Bremerton.

The parties whose names appear below warrant that they are authorized to enter into a concession modification that is binding on the parties of this agreement.

IN WITNESS WHEREOF, the parties have executed this Concession Modification on the day and year first written above.

KITSAP FAMILY YMCA

THE CITY OF BREMERTON

By Glen Godfrey
Its Executive Director

By Cary Bozeman
Its Mayor

DATE: _____

DATE: _____

APPROVED AS TO FORM:

ATTEST:

Bremerton City Attorney

City Clerk

NOTICES TO BE SENT TO:

NOTICES TO BE SENT TO:

Mr./Mrs.
Title
City of Bremerton Engineering Department
Address 1
Address 2
Phone/Fax

+-----+
+Enter Search Criteria, Press Esc Key to Transmit+
+-----+

+Press Del Key to Terminate Delete Mode+
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CHANGE

Contract Transactions

Contract Number 2547

+Vendor Name

YMCA

+Subject

CONCESSION AGREEMENT

+Department

ADMIN SERVICES

+Status Code

GEN

Amount \$20.00

Begin Date 12/06/1984

End Date 01/20/2015

Review Date 06/01/2014

Insurance

Type Amount

GL \$2000000.00

Insurance Total \$2000000.00

Insurance Review Date 08/01/2004

Comments

OPTION TO RENEW FOR 2 TEN YR TERMS - NEGOTIATIONS TO
BEGIN 7/1/2014

SECOND AMENDMENT TO KITSAP YMCA CONCESSION AGREEMENT

THIS AGREEMENT entered into by and between the City of Bremerton, a municipal corporation organized under the laws of the State of Washington (hereinafter referred to as "City"), and the Kitsap Family Young Men's Christian Association, and operating branch of the Armed Services YMCA of the USA (hereinafter referred to as "YMCA").

WITNESSETH:

WHEREAS, the parties entered into a concession agreement effective December 6, 1984, for a recreational and meeting facility to serve the citizens of Bremerton, which agreement was amended on September 19, 1990; and

WHEREAS, the City is negotiating a concession agreement for the construction of an ice arena facility in an area adjacent to the real property subject to the concession agreement between the City and the YMCA; and

WHEREAS, a portion of the real property currently provided to the YMCA in the concession agreement dated December 6, 1984 is required in order to construct the ice arena facility; and

WHEREAS, the construction of the ice arena facility will result in mutual benefits to the City and the YMCA as a result of the creation of recreational area that will include the YMCA and the ice arena. In addition, the YMCA will benefit from the additional parking that will be constructed with the ice arena facility and available for use by the YMCA; and

WHEREAS, the parties hereto agree to remove that portion of real property from the YMCA concession agreement, together with an adjoining nonexclusive ten (10) foot right of entry for construction, maintenance and repair of adjacent facilities, in order to allow the same to be used in the construction, maintenance and repair of the ice arena facility.

NOW THEREFORE, in consideration of the mutual covenants set forth herein,
the parties agree as follows:

1. Exhibit A of the Kitsap YMCA Concession Agreement effective December 6, 1984, as amended on September 19, 1990 is hereby amended to read as stated in Exhibit A-1 attached hereto and incorporated herein by this reference.

2. All references to "Exhibit A" in the Kitsap YMCA Concession Agreement effective December 6, 1984, as amended on September 19, 1990, shall, from the date of this amendment forward, refer to Exhibit A-1 attached hereto.

3 All other terms and conditions of the Kitsap YMCA Concession Agreement effective December 6, 1984, as amended on September 19, 1990 shall remain in full force and effect.

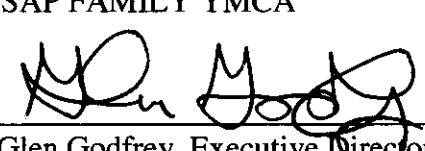
IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth below.

CITY OF BREMERTON

By: 
CARY BOZEMAN, Mayor

DATE: 8/7/02

KITSAP FAMILY YMCA

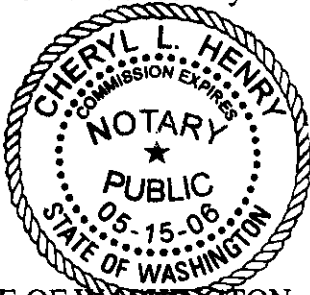
By: 
Glen Godfrey, Executive Director

DATE: 8/7/02

STATE OF WASHINGTON)
) ss.
COUNTY OF KITSAP)

On this day, before me, Cary Bozeman, Mayor of the City of Bremerton, the municipal corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute the instrument on behalf of said municipal corporation.

GIVEN under my hand and official seal this 7th day of August, 2002.

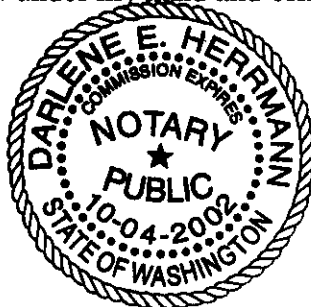


Cheryl L. Henry
Notary Public in and for the State of
Washington, residing at Bremerton
My appointment expires: 5-15-06

STATE OF WASHINGTON)
) ss.
COUNTY OF KITSAP)

On this day, before me, Glen Godfrey, Executive Director of the Kitsap Family YMCA, the organization that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said organization, for the uses and purposes therein mentioned, and on oath stated that (s)he was authorized to execute the said instrument on behalf of said organization.

GIVEN under my hand and official seal this 7th day of August, 2002.



Darlene E. Herrmann
Notary Public in and for the State of
Washington, residing at Bremerton
My appointment expires: 10/04/02

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**EXHIBIT A-1
LEGAL DESCRIPTION**

THAT PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 24 NORTH, RANGE 1 EAST, W.M., IN THE CITY OF BREMERTON, KITSAP COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT A CONCRETE MONUMENT AT THE CENTER OF SAID SECTION 12 BEING APPROXIMATELY AT THE CENTER LINES OF SCHLEY BOULEVARD AND TWELFTH AVENUE; THENCE SOUTH 2°01'25" WEST 1541.81 FEET; THENCE CONTINUING SOUTH 2°01'25" WEST 280.00 FEET; THENCE NORTH 87°58'35" WEST 110.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 87°58'35" WEST 310 FEET; THENCE SOUTH 47°54'02" WEST 330.00 FEET; THENCE SOUTH 42°06'07" EAST 270.00 FEET; THENCE NORTH 65°46'40" EAST 143.72 FEET; THENCE SOUTH 87°58'35" EAST 230.00 FEET; THENCE NORTH 2°01'25" EAST 360.00 FEET TO THE POINT OF BEGINNING;

EXCEPT THAT PORTION LYING WITHIN HOMER R. JONES DRIVE, BEING A 43 FOOT WIDE STRIP, MORE OR LESS, AS MEASURED BETWEEN BACKS OF EXISTING SIDEWALKS;

AND EXCEPT ANY PORTION LYING WITHIN THE FOLLOWING DESCRIBED PARCEL:

THAT PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 24 NORTH, RANGE 1 EAST, W.M., IN THE CITY OF BREMERTON, KITSAP COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT A CONCRETE MONUMENT MARKING THE SOUTHEAST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 12; THENCE NORTH 2°01'25" EAST ALONG THE EAST LINE THEREOF 460.48 FEET; THENCE NORTH 81°50'04" WEST 49.07 FEET TO THE TOP OF A BANK AND THE POINT OF BEGINNING; THENCE CONTINUING NORTH 81°50'04" WEST 238.24 FEET TO THE BACK OF AN EXISTING SIDEWALK; THENCE SOUTH 7°45'25" WEST ALONG SAID SIDEWALK 34.99 FEET; THENCE NORTH 82°00'54" WEST 181.62 FEET; THENCE SOUTH 7°59'06" WEST 174.03 FEET; THENCE SOUTH 59°45'59" EAST 174.78 FEET TO THE BACK OF AN EXISTING SIDEWALK BEING A POINT ON A CURVE WHOSE CENTER POINT BEARS NORTH 57°19'12" WEST 229.36 FEET; THENCE ALONG SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 35°26'41" FOR AN ARC DISTANCE OF 141.89 FEET; THENCE SOUTH 32°16'28" EAST 106.04 FEET; THENCE SOUTH 78°02'26" EAST 226.39 FEET TO THE SOUTH LINE OF

THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 12; THENCE SOUTH 87°55'14" EAST ALONG SAID LINE 7.60 FEET TO THE TOP OF A BANK; THENCE NORTHERLY ALONG SAID TOP OF BANK TO THE POINT OF BEGINNING;

SUBJECT TO A NONEXCLUSIVE 10-FOOT WIDE RIGHT OF ENTRY RESERVED UNTO GRANTOR AND ASSIGNS FOR CONSTRUCTION, MAINTENANCE AND REPAIR OF ADJACENT FACILITIES, THE SOUTH LINE OF WHICH IS DESCRIBED AS FOLLOWS:

COMMENCING AT A CONCRETE MONUMENT MARKING THE SOUTHEAST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 12; THENCE NORTH 2°01'25" EAST ALONG THE EAST LINE THEREOF 460.48 FEET; THENCE NORTH 81°50'04" WEST 49.07 FEET TO THE TOP OF A BANK AND THE POINT OF BEGINNING OF THIS LINE; THENCE CONTINUING NORTH 81°50'04" WEST 238.24 FEET TO THE BACK OF AN EXISTING SIDEWALK AND THE POINT OF TERMINATION OF THIS LINE.



ADMINISTRATIVE SERVICES

239 4th Street • Bremerton, WA 98337 • (360) 478-5290 • FAX (360) 478-5200

October 3, 2000

Glen Godfrey, Executive Director
Kitsap Family YMCA
60 Magnuson Way
Bremerton WA 98310

Re: Letter of Understanding

Dear Mr. Godfrey:

This letter is meant to supplement the current concession agreement #2547.

CPI: The base fee will be adjusted annually for the quarter beginning April 1 using the CPI change published in January of the same year for the year ended 12/31 of the prior year.

Membership Fees: The fee for memberships is increased as of January 1 each year based on the average membership reported during the preceding four quarters ending September 30th of the previous year. Per our discussion, the 2000 membership fee is increased on the same schedule as the base fee using the membership counts for calendar year 1999.

The above methodology will be used commencing third quarter 2000 for calculating the concession rent.

Sincerely,

Lynn Horton
Mayor
City of Bremerton

Glen Godfrey
Executive Director
Kitsap Family YMCA

PGJ/jer

AMENDED KITSAP YMCA CONCESSION AGREEMENT

THIS AGREEMENT entered into by and between the City of Bremerton, a municipal corporation organized under the laws of the State of Washington, (hereinafter referred to as "City"), and the Kitsap Family Young Men's Christian Association, an operating branch of the Armed Services YMCA of the USA, (hereinafter referred to as "YMCA").

WITNESSETH:

WHEREAS, the parties entered into a concession agreement effective December 6, 1984, for a recreational and meeting facilities to serve the citizens of Bremerton; and

WHEREAS, the Fee Committee, established by subparagraph 8e of said agreement, to monitor negotiations and resolve disputes, has recommended revision of the concession fee to reflect experience under the contract with YMCA pool usage, one consideration in establishing the original fee structure;

NOW, THEREFORE, in consideration of the mutual covenants set forth herein; the parties agree as follows:

1) Subparagraph 8a of the Kitsap YMCA Concession Agreement effective December 6, 1984 shall be amended to read:

8. CONCESSION CONSIDERATION FEES AND COSTS:

a. It is agreed and understood that the YMCA shall pay to City an annual concession fee in the amount of \$25,000.00. The annual concession fee shall be computed and paid quarterly by the YMCA within thirty (30) days after expiration of each quarter. This fee shall be adjusted on April 1 of each year based on the annual change in the Consumer Price Index (CPI-U) as published by the Bureau of Labor Statistics for the U.S. Department of Labor for the Seattle Metropolitan statistical area (1982-84=100), as published for the month of January of the prior year; provided the percentage increase for any single year shall not exceed seven percent (7%). The first adjustment shall not occur until January, 1992.

The annual concession fee shall also be increased as of January 1 by \$25.00 per year for each YMCA membership in excess of One Thousand memberships, as determined by the average membership reported during the preceding four quarters ending September 30th of the previous year. In the

event memberships are less than the previous year, the annual concession fee shall be decreased, but in no event, lower than \$25,000.00. For purposes of determining membership totals under this section, YMCA youth memberships shall be counted as one-half a membership.

Finally, the concession fee shall be adjusted for any month where daily fees during the month exceeded fifty percent (50%) of the total gross membership fees collected for the month. The concession fee shall include twenty percent of the daily fee collections for these months.

Daily fees required by this agreement shall permit the use of the YMCA/pool facility during one business day to the same extent as a YMCA member. Gross membership fees shall include any amounts, except finance charges, for unlimited use of the YMCA/pool facility regardless of the use of said funds by the YMCA. Such gross membership fees shall not include any amounts received as daily fees. It is understood and agreed that there shall be a low cost daily fee for youth and military personnel at the YMCA facilities and City shall not discourage the said low daily fee for youth and military personnel. Membership in the Kitsap Family YMCA will entitle an individual to non-instructional use of the City pool facility at no additional charge. YMCA members will pay normal public fee charges for any instructional swimming classes offered by said City at the City pool facility. It is specifically agreed that YMCA shall reimburse City for any costs associated with City or generated by City for benefit of YMCA with YMCA's prior notice and approval. Excepting the Selective Swim Program, YMCA member use and access the City's pool shall be the same as that of a non-member of the YMCA.

2) The balance of the concession agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date set forth above.

CITY OF BREMERTON

Dated: 9/12/10


BY: 
LOUIS MENTOR, Mayor

ATTEST:


KATHLEEN McCLUSKEY, Clerk

11

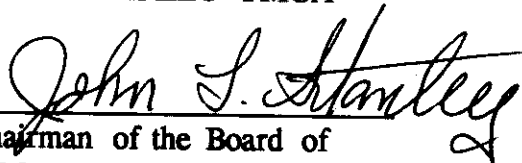
APPROVED AS TO FORM:


IAN R. SIEVERS, City Attorney

KITSAP FAMILY YMCA

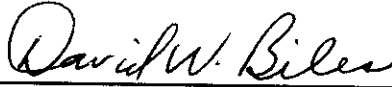
Dated: 8-30-90

BY:


Chairman of the Board of
Management

Dated: 8-30-90

BY:


Secretary

UNITED STATES DEPT. OF INTERIOR

Dated: 12/13/90

BY:


Regional Director

NATIONAL ARMED SERVICES YMCA
OF USA

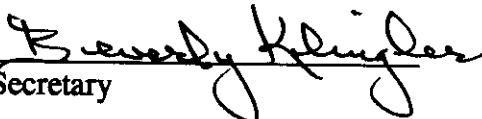
Dated: 9-7-90

BY:


National Executive Director

Dated: 9-7-90

BY:


Asst Secretary

STATE OF WASHINGTON)

: ss

COUNTY OF KITSAP)

ON THIS 20th day of Sept, 1990, before me, the undersigned Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared LOUIS MENTOR and KATHLEEN McCLUSKEY, Mayor and City Clerk, respectively,

AMENDED KITSAP YMCA CONCESSION AGREEMENT -3-

of the City of Bremerton, a municipal corporation, to me known to be the individuals described in and who executed the within and foregoing instrument, and acknowledged to me that they signed and sealed same as the free and voluntary act and deed of the City of Bremerton for the uses and purposes therein mentioned.

GIVEN UNDER MY HAND and official seal the day and year first above written.



Darlene E. Herrmann
Notary Public in and for the State of
Washington, residing at: Bremerton
My appointment expires: 10-4-90.

STATE OF WASHINGTON)
: SS
COUNTY OF KITSAP)

ON THIS 30th day of AUGUST, 1990, before me, the undersigned Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared John Stanley and David Biles, Chairman of the Board and Secretary, respectively, of the Kitsap Family YMCA, to me known to be the individuals described in and who executed the within and foregoing instrument, and acknowledged to me that they signed and sealed same as the free and voluntary act and deed of the Kitsap Family YMCA for the uses and purposes therein mentioned.

GIVEN UNDER MY HAND and official seal the day and year first above written.

Timothy S. Quigley
Notary Public in and for the State of
Washington, residing at: Bremerton
My appointment expires: 8-9-93.

STATE OF WASHINGTON)
 : ss
COUNTY OF KITSAP)

ON THIS 7 day of Sept, 1990, before me, the undersigned Notary Public in and for the State of VA, duly commissioned and sworn, personally appeared Rhonda Silva and Barney Kewitz, President and Secretary, respectively, of the National Armed Services YMCA's of the USA, to me known to be the individuals described in and who executed the within and foregoing instrument, and acknowledged to me that they signed and sealed same as the free and voluntary act and deed for the National Armed Services YMCA's of the USA for the uses and purposes therein mentioned.

GIVEN UNDER MY HAND and official seal the day and year first above written.

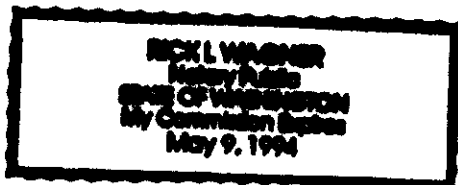
Virginia

[Signature]
Notary Public in and for the State of
Washington, residing at: Spanghele
My appointment expires: Oct-2-1991

STATE OF WASHINGTON)
 : ss
COUNTY OF KING ~~KITSAP~~)

ON THIS 13th day of Dec., 1990, before me, the undersigned Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Charles H. Osgood of the United States Department of the Interior, National Parks Service, the organization that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said organization, for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute the said instrument.

GIVEN UNDER MY HAND and official seal the day and year first above written.



Rick L. Wagner
Notary Public in and for the State of
Washington, residing at: Rickland
My appointment expires: 5/9/94

PORTION OF THE FOLLOWING DESCRIBED PROPERTY:

Beginning at a concrete monument at the center of Section 12, Township 24 N, Range 1 E, W.M., said center of said Section 12 being approximately at the intersection of the center lines of Schley Boulevard and Twelfth Avenue; thence S 2°01'25" W 1541.81 feet to the true point of beginning; thence S 2°01'25" W 1050.70 feet to a concrete monument, said monument being on the Section line dividing Sections 12 and 13 at a point approximately where the centerline of Schley Boulevard intersects said Section line; thence S 1°18'18" W 242.23 feet, more or less, to the north side of State Secondary Highway No. 303; thence N 70°27'40" W along the northerly side of said Highway 299.68 feet; thence S 19°32'20" W along westerly side of said Highway 50 feet; thence in a northwesterly direction along the northerly side of said Highway on a curve of radius 547.97 feet a distance of 227.32 feet; thence along said Highway N 46°41'40" W 136.28 feet; thence N 87°52'56" W 7.60 feet; thence along the northeasterly side of said Highway N 46°41'40" W 163.21 feet; thence N 43°18'40" W 58.43 feet, more or less, to a point on the back of the sidewalk along the south side of Homer R. Jones Drive; thence across said drive N 23°05'29" E 43 feet, more or less, to a point on the back of the sidewalk on the north side; thence along the back of the sidewalk on a curve to the right on a radius of 48.65 feet a distance of 44.42 feet; thence along back of sidewalk N 14°35'41" W 72.06 feet; thence along back of sidewalk on a curve to the right with a radius of 461.5 feet, a distance of 216.78 feet; thence along back of sidewalk N 12°19'07" E 105.56 feet; thence along back of sidewalk on a curve to the right with a radius of 651.5 feet a distance of 227.47 feet; continue along back of sidewalk on a curve to the right with radius 431.31 feet a distance of 273.79 feet; thence N 68°41'39" E 216.26 feet crossing Homer R. Jones Drive at intersection with Schley Boulevard; thence on a curve to the left with a radius of 427.72 feet a distance of 63.23 feet; thence S 29°46'35" E 78.5 feet; thence S 87°58'35" E 139.5 feet, more or less to true point of beginning, containing approximately 18.1 acres.

SAID PORTION DESCRIBED AS FOLLOWS:

Beginning at a concrete monument at the center of Section 12, Township 24 N, Range 1 E, W.M., said center of said Section 12 being approximately at the center lines of Schley Boulevard and Twelfth Avenue; thence S 2°01'25" W 1541.81 feet to the true point of beginning; thence S 2°01'25" W 280 feet; thence N 87°58'35" W 110 feet to the true point of beginning; thence continuing N 87°58'35" W 310 feet; thence S 47°54'02" W 330.00 feet; thence S 42°06'07" E 270.00 feet; thence N 65°46'40" E 143.72 feet; thence S 87°58'35" E 230.00 feet; thence N 2°01'25" E 360.00 feet to the true point of beginning. Except a 40' wide strip for Homer R. Jones Drive as now exists. The above description contains 3.52 acres.

EXHIBIT A

SCOTLEY PARKWAY

1108.00
112908.00

1108.00
112908.00

1108.00
112908.00

APRKS
EXIST

230'
N87°58'35"W

3.16 Acres

13 CARS

2 CARS

YMCA

PROPOSED
YMCA

20 CARS
EXIST

RE. 1108.00
YAK TUB

11 CARS
EXIST

10 CARS
EXIST

12 CARS
EXIST

11 CARS
EXIST

1108.00
112908.00

1108.00
112908.00

1108.00
112908.00

project

CONSENT TO ASSIGNMENT OF LEASE

THE UNDERSIGNED Lessor hereby consents to the assignment to Kitsap County Bank, a Washington banking corporation, for security purposes only, that certain lease between the undersigned, as Lessor, and Kitsap Family YMCA, as Lessee, dated August 28, 1985, covering that certain real property legally described in Exhibit "A" attached hereto.

Lessor acknowledges that Lessee has covenanted with Kitsap County Bank not to modify or amend such lease without prior written notice to Kitsap County Bank.

While such assignment is for security purposes only, Lessor expressly consents to Kitsap County Bank performing any condition or covenant imposed upon Lessee or enjoying any benefits granted to Lessee pursuant to such lease, in the event the YMCA is in default of its loan agreement with Kitsap County Bank secured by the assignment of the YMCA lease.

Lessor expressly grants to Kitsap County Bank the power to further assign such lease for a term not to exceed the term of such lease, but such assignee shall have the same powers as the Lessee herein to renew and extend such term; provided, that Lessor may decline to accept a particular assignee if such declination is for good and sufficient cause. Kitsap County Bank shall have no further liability under such lease following such assignment.

In the event of any default under the aforementioned lease, Lessor will not terminate the lease, nor take any action to enforce any claim with respect thereto, without first giving Kitsap County Bank the same notice it may be required to furnish the Lessee by the terms of the lease or by law, and also provide Kitsap County Bank with the right to cure such default within such period. Such notice to Kitsap County Bank shall clearly state the time within which cure must be made.

DATED this 31 day of July, 1987.

CITY OF BREMERTON

BY: Gene Lobe
GENE LOBE, Mayor

ATTEST:

Kathleen L. McCluskey
KATHLEEN L. McCLUSKEY, Clerk
By: RICH HANNA, Treasurer
STATE OF WASHINGTON)

Approved as to form:
BREMERTON CITY ATTORNEY

[Signature]

COUNTY OF KITSAP)

SS

ON THIS 31 day of July, 1987, before me, the undersigned Notary public in and for the State of Washington, duly commissioned and sworn, personally appeared Gene Lobe and ~~Kathleen L. McCluskey~~, Mayor and ~~Clerk~~, respectively of the City of Bremerton, the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute the said instrument and that the seal affixed is the corporate seal of said corporation.

WITNESS my hand and official seal the day and year first above written.

[Signature]
NOTARY PUBLIC in and for the
State of Washington, residing
at Bremerton
Commission expires: 12-7-89

A PORTION OF THE FOLLOWING DESCRIBED PROPERTY:

Beginning at a concrete monument at the center of Section 12, Township 24 N, Range 1 E, W.M., said center of said Section 12 being approximately at the intersection of the center lines of Schley Boulevard and Twelfth Avenue; thence S 2°01'25" W 1541.81 feet to the true point of beginning; thence S 2°01'25" W 1050.70 feet to a concrete monument, said monument being on the Section line dividing Sections 12 and 13 at a point approximately where the centerline of Schley Boulevard intersects said Section line; thence S 1°18'18" W 242.23 feet, more or less, to the north side of State Secondary Highway No. 303; thence N 70°27'40" W along the northerly side of said Highway 299.68 feet; thence S 19°32'20" W along westerly side of said Highway 50 feet; thence in a northwesterly direction along the northerly side of said Highway on a curve of radius 547.97 feet a distance of 227.32 feet; thence along said Highway N 46°41'40" W 136.28 feet; thence N 87°52'56" W 7.60 feet; thence along the northeasterly side of said Highway N 46°41'40" W 163.21 feet; thence N 43°18'40" W 58.43 feet, more or less, to a point on the back of the sidewalk along the south side of Homer R. Jones Drive; thence across said drive N 23°05'2' E 43 feet, more or less, to a point on the back of the sidewalk on the north side; thence along the back of the sidewalk on a curve to the right on a radius of 48.65 feet a distance of 44.42 feet; thence along back of sidewalk N 14°35'41' W 72.06 feet; thence along back of sidewalk on a curve to the right with a radius of 461.5 feet, a distance of 216.78 feet; thence along back of sidewalk N 12°19'07" E 105.56 feet; thence along back of sidewalk on a curve to the right with a radius of 651.5 feet a distance of 227.47 feet; continue along back of sidewalk on a curve to the right with radius 431.31 feet a distance of 273.79 feet; thence N 68°41'39" E 216.26 feet crossing Homer R. Jones Drive at intersection with Schley Boulevard; thence on a curve to the left with a radius of 427.72 feet a distance of 63.23 feet; thence S 29°46'35" E 78.5 feet; thence S 87°58'35" E 139.5 feet, more or less to true point of beginning, containing approximately 18.1 acres.

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Exhibit "A"

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*Old
Legal*

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ASSIGNMENT OF LEASE

THIS AGREEMENT, made and entered into this 11th, day of
June, 1987, by and between _____
Kitsap Family YMCA

_____ ,
hereinafter referred to as the Assignor, and Kitsap County Bank, a
Washington banking corporation, hereinafter referred to as the Assignee:

WITNESSETH:

WHEREAS, by written lease dated the 25 day of August,
1985, the Assignor herein leased certain premises legally described as
shown on Exhibit A attached hereto which by this reference is incorporated
herein as though fully set forth, from Kitsap YMCA Concession Agreement

for a term of 30 years.

WHEREAS, The City of Bremerton
_____ have consented in writing to the assignment of said lease by the Assignor
herein to the Assignee herein; and

WHEREAS, the Assignee herein has agreed to loan the sum of
Two Hundred Thousand Dollars and 00/100 ----- (\$200,000.00)
to the Assignor herein; and

WHEREAS, it is the mutual desire of the Assignor and the Assignee
herein to effectuate an assignment of the aforementioned lease for collateral
purposes in connection with the aforementioned loan; now, therefore, it is
hereby AGREED AS FOLLOWS:

For and in consideration of the sum of \$200,000.00 in hand
paid by the Assignee to the Assignor, the receipt of which is hereby acknowledged,
the Assignor hereby assigns, conveys, and transfers to the Assignee the premises
legally described in Exhibit A attached hereto, and the rights and responsibilities
contained in the aforementioned lease between the Assignor herein and
The City of Bremerton

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Exhibit "A"

KITSAP YMCA CONCESSION AGREEMENT

THIS AGREEMENT entered into by and between the City of Bremerton, a municipal corporation duly organized and existing under the laws of the State of Washington, (hereinafter referred to as "City"), and the Kitsap Family Young Men's Christian Association, an operating branch of the Armed Services YMCA of the USA, (hereinafter referred to as "YMCA").

W I T N E S S E T H:

WHEREAS, City is the owner of certain former United States Government surplus property known as "East Park"; and

WHEREAS, City and YMCA wish to enter into a concession agreement for recreational and meeting facilities to serve the citizens of Bremerton; and

WHEREAS, Quit Claim Deed dated December 14, 1972, between the City and the United States under Covenant Number Three, provides that the City may provide related recreational facilities and services compatible with City's application through concession agreements entered into with third parties, such as YMCA; provided, further, that prior concurrence to such agreements is obtained, in writing, from the Secretary of the Interior or his delegated representative, the Regional Director of the Northwest Region, Heritage Conservation and Recreational Service, Department of the Interior;

NOW, THEREFORE, in consideration of the mutual covenants and agreements as hereinafter set forth, City agrees to allow YMCA to provide services and facilities hereinafter to be mentioned, upon the real property described in Exhibit "A" attached hereto and incorporated herein by this reference and within the confines of East Park, Bremerton, Kitsap County, Washington.

1. TERM: YMCA shall have the use of the area described as Exhibit "A," upon completion of conditions set forth herein, for a period of time commencing December 6, 1984, and continuing until January 1, 2015 upon the additional terms and conditions set forth pursuant to this Agreement. City and YMCA will then have an option to renew this Agreement for two consecutive ten

(10) year terms upon conditions to be mutually agreed upon at that time. City and YMCA agree to enter into negotiations July 1, 2014 for renewal of this Agreement for those option terms. Any agreement reached by City and YMCA for renewal of this Agreement shall be subject to the approval of the United States Department of the Interior and the National Parks Service.

As condition precedent, this Agreement shall come into effect and shall be subject to the YMCA obtaining approval of all necessary state and federal authorities which have power to control disposition or use of the property herein.

2. USE: YMCA shall use the premises for the sole purpose of constructing, equipping, furnishing and operating a recreational and meeting facility and for the purposes incidental thereto. Written approval by City and United States Department of the Interior and the National Parks Service shall be required for other proposed used in conjunction with or in addition to those specified above. The public is authorized to have ingress and egress across this property other than through the building facility.

3. LOCATION OF AREA WHERE ACTIVITIES ARE TO BE CONDUCTED: YMCA is to construct and operate its facility in the described area as attached hereto in Exhibit "A" and by this reference made a part hereof.

4. CONDITIONS SUBSEQUENT: YMCA shall meet all the following conditions to keep this Agreement and use project as proposed:

a. Zoning: If necessary, YMCA shall obtain appropriate zoning for the premises for the use proposed by YMCA as set forth above.

b. Soil tests: YMCA shall obtain, at its own expense within one hundred eighty (180) days after the date hereof, soil tests which indicate to YMCA's satisfaction that soil condition is acceptable for YMCA's intended use and unless YMCA notifies City, in writing, of unacceptability of soil conditions within one hundred eighty (180) days, YMCA shall be deemed to have accepted soil composition for the purpose of this Agreement.

c. Permits: YMCA shall obtain all necessary permits from appropriate governmental agencies for its respective use as hereinafter defined.

d. Concession approval: City shall obtain required approval from Heritage Conservation and Recreation Service, Department of the Interior, for this concession Agreement.

e. Board of Directors: YMCA shall obtain approval from its Board of Directors to execute this Agreement.

City and YMCA shall use every reasonable effort and due diligence to fulfill conditions (a), (b), (c), (d) and (e). In the event any one of said conditions is not met within two hundred forty (240) days after the date hereof, the party who fails to fulfill said condition may cancel this Agreement upon delivery to the other of a written notice of such termination within fifteen (15) days thereafter.

5. IMPROVEMENTS BY CONTRACTOR: Upon execution of this Agreement and approval by Regional Director, Heritage Conservation and Recreation Service, United States Department of Interior, or its successor governmental agency, YMCA shall initiate appropriate building permits and reports. Once all necessary permits are obtained, YMCA shall commence construction and installation on the premises of the following improvements and pursue said construction and installation with due diligence.

a. A building with approximately Nineteen Thousand (19,000) square feet of which there shall not be more than Nineteen Thousand (19,000) square feet at ground level.

b. A paved access road subject to City codes, if necessary.

c. Parking shall be developed within the framework of the Bremerton Building Code. This code allows some joint use of parking subject to approval by the Board of Adjustments. Any parking required and not presently improved, shall be improved to City standards by YMCA. The parking lot will be completed prior to the occupancy of the building by YMCA. Additional parking may be required by the City, if necessary.

d. Parking area plans and/or joint use of parking must be approved by the City Council.

All improvements of YMCA shall be solely at YMCA's cost and expense and shall be performed in a good workmanlike manner in accordance with sound construction practices and comply with all building and fire codes of the City of Bremerton. YMCA shall keep the premises and said improvements free and clear of all liens for labor and material and shall hold City harmless from any liability in respect to YMCA's work hereunder.

6. ADDITIONAL CONDITIONS: It is further acknowledged and agreed that:

a. The YMCA shall prove to the City, within twenty-four (24) months, its financial ability and commitment to meet the requirements of this proposed building project. Failure to prove that ability shall allow either or both parties to terminate this Agreement.

b. Parties agree that YMCA is empowered and authorized to secure the necessary services of architects, engineers and others and to consult with them in the designing of the building to be constructed on said property known as East Park. Prior to proceeding to bid on any such facility, the final plan for design shall be approved by both YMCA and City Council. The purpose of this paragraph is to ensure that the facility to be constructed by the YMCA shall be harmonious with future structures for the maintenance and operation of the facilities and to keep the building, grounds and parking lot maintained in a clean and orderly manner.

c. Parties agree that City shall provide specific site plan approval for the site prior to initiation of construction. In the event that site plan approval is not obtained by YMCA from City, this Agreement shall become null and void.

7. OWNERSHIP OF IMPROVEMENTS: All improvements, furnishings and equipment constructed or installed on the premises by YMCA shall be personal property and YMCA shall have legal title thereto during the term of this Agreement. Upon expiration or termination of this Agreement, YMCA shall be

allowed six (6) months to remove permanent improvements. If not so removed, title to all permanent improvements shall vest in City. Title to all supplies, furnishings, inventories, removable fixtures and removable equipment and other personal property shall remain in YMCA and YMCA shall have the right to remove such items from the premises unless YMCA is in default on this Agreement. If YMCA is in default, City shall have the right to retain all property left on the premises.

8. CONCESSION CONSIDERATION FEES AND COSTS:

a. It is agreed and understood that the YMCA shall pay to City an annual concession fee in the amount of twenty percent (20%) of gross membership fees received by YMCA for that year. Gross membership fees are defined as all amounts received by the YMCA for the unlimited use of the YMCA facilities. Said gross membership fees shall not include any amounts received as daily fees. In the event that the daily fees collected for a calendar month are equal to or greater than Fifty Percent (50%) of the gross membership fees collected for that month, said daily fees will become part and parcel of the gross membership fees for the purpose of determining the concession fee to be paid for that month. It is further understood and agreed that there shall be a low cost daily fee for youth and military personnel at the YMCA facilities and City shall not discourage said low daily fee for youth and military personnel. The annual concession fee shall be computed and paid quarterly by the YMCA within thirty (30) days after expiration of each quarter and shall commence upon occupancy of the premises and/or the selling of memberships, whichever occurs first. Membership in the Kitsap Family YMCA will entitle an individual to non-instructional use of the City pool facility at no additional charge. YMCA members will pay normal public fee charges for any instructional swimming classes offered by City at City pool facility. It is specifically agreed that YMCA shall reimburse City for any costs associated with City or generated by City for benefit of YMCA with the YMCA's prior notice and approval. YMCA member use and access to the City pool shall be the same as that of a nonmember of the YMCA.

b. YMCA agrees to purchase a guaranteed minimum number of hours per year from City for the operation of the Bremerton Handicapped Swim Program, and Seniors and Infant/Tadpole Swim Programs as may be established by YMCA. City will make the City pool facility available at other than peak usage times. The hourly rate of charge to YMCA and the hours of usage will be determined by agreement of the parties or established by the committee defined in Subparagraph (e) herein.

c. YMCA agrees to provide in its plans and specification for future expansion of its facilities to include a performing arts/gymnasium complex. City agrees to provide additional land for an additional fee if necessary, however, the providing of additional land shall require prior written approval from the United States Department of the Interior and National Parks Service. City also will have free access to and use of such performing arts/gymnasium complex at no charge to City.

d. It is agreed and understood that the annual concession fee, as set forth in Subparagraphs (a) and (b) herein, may be waived by the City Council of the City of Bremerton under the following conditions:

(i) In the event of demonstrated financial hardship to YMCA for a limited period of time, at the option of City, or as determined by the committee defined in Subparagraph (e) herein.

e. A fee committee will be established whose duties will include, but not be limited to, reviewing membership fees as established by YMCA and waiver requests; determining a fair hourly rate of charge to YMCA for operation of its swimming programs and the particular hours of pool usage; and monitoring negotiations and resolving disputes between the respective parties. The committee shall consist of seven (7) members, two (2) each being selected by YMCA and City Council, with the fifth member being an independent third party chosen by the other committee members. The Parks Superintendent and the YMCA Executive Director shall be non-voting, ex-officio members of the committee. The committee will meet at the call of the Parks

Superintendent. All committee decisions and recommendations are subject to the approval of the City Council.

f. The City acknowledges and agrees that the public is the benefactor of this project and it is not the intent of the City to profit from this building program. It is the intent of both parties that the rates charged by the YMCA shall be competitive with those of similar facilities in Western Washington. Further, all revenue generated for the City pursuant to this Agreement shall be used solely for park and recreation purposes.

9. LICENSES, PERMITS AND UTILITIES: YMCA shall pay for all licenses, permits and utility fees necessary for YMCA to conduct YMCA's business on the premises.

10. BIENNIAL REPORTS: YMCA shall furnish any and all information that may be required for inclusion in the City's biennial report to the Heritage Conservation and Recreation Service, United States Department of Interior.

11. ANNUAL REPORT: YMCA shall submit an annual report to City, not later than one (1) month after the end of each year's anniversary date of the commencement of YMCA's performance of this Agreement. This annual report shall summarize the funds collected and expended, improvements made, attendance, hours of operation, operations and facilities available for use.

12. RECORDS: YMCA shall keep sufficient records of finance, attendance, operations and improvements to provide information required for YMCA's annual report and City's biennial report and its compliance with the nondiscrimination clauses herein set out.

13. AUDITS AND INSPECTIONS: YMCA's records and documents with respect to all matters covered by this Agreement shall be subject at all times to inspection, review or audit by City during the performance of this Agreement. YMCA further agrees to structure its auditing system in accordance with general accounting standards to be established by City.

14. ASSIGNMENT/SUBCONTRACTING: YMCA shall not assign any portion of this Agreement except for purposes of financing without the written consent of City. Any assignment for other

purposes shall be treated as a new concession contract and shall be renegotiated with City.

15. TERMINATION: This Agreement may be terminated upon written mutual agreement between the parties hereto and pursuant to the terms and conditions of this Agreement. City may unilaterally terminate the contract upon three (3) months written notice should YMCA:

- (a) materially breach any provision of this Agreement;
- (b) fail to follow any policy of the City's Parks System, as reflected in City's ordinances, rules, regulations and directives; or
- (c) fail to operate the subject business as a nonprofit corporation with membership available to the public as set forth in Section 18 herein.

16. HOLD HARMLESS AND INDEMNIFICATION: YMCA agrees to protect and save City, United States Department of the Interior and the National Parks Service, their elected and appointed officials, agents and employees while acting in the scope of their duties as such, harmless from and against all claims, demands and causes of action of any kind or character, including the cost of defense thereof. Included would be all claims arising out of services performed or omissions of the YMCA and/or its agents, employees, subcontractors or representatives. This does not include any negligence relating to construction or operation of the existing City pool facility by City or its agents. This provision shall be inapplicable to the extent that the City and/or United States Department of the Interior/National Parks Service is judicially found solely negligent for such damage or injury and additionally to the extent that the City and/or United States Department of the Interior/National Parks Service is judicially found comparatively negligent as to that portion of its negligence or to the extent that the City and/or United States Department of the Interior/National Parks Service is judicially found to be free from negligence.

17. INSURANCE: YMCA shall meet and maintain the following liability insurance requirements during the period of this Agreement:

a. Certificates evidencing the maintenance of the YMCA's insurance coverage shall be filed with the City on or before the effective date of commencement of construction of complex and upon written request of the City, a duplicate of said policy shall be provided as evidence of insurance.

b. City shall be given notice, in writing, at least thirty (30) days in advance of cancellation or reduction of any such policy of insurance.

c. All policies of insurance shall be made with a company or companies authorized by law to transact insurance business within the State of Washington.

d. Bodily and property damage liability insurance, the limits of which public liability insurance shall be not less than One Million Dollars (\$1,000,000.00) for each person, One Million Dollars (\$1,000,000.00) in the aggregate.

e. The limits of insurance set forth herein shall be reviewed every five (5) years and YMCA shall increase or decrease the necessary insurance as is directed by the City Council. YMCA agrees to provide such additional insurance as may be required from time to time by the City.

18. NONDISCRIMINATION:

a. YMCA shall not restrict membership of the Kitsap Family YMCA because of any race, color, religion, creed, sex, national origin, marital status or the presence of any sensory, mental or physical handicap or age. Membership shall be made available to the general public and in accordance with the terms and conditions as set forth in the Bylaws of the National Armed Services YMCA's of the USA.

b. YMCA facilities shall be available for the unrestricted use of the general public. It will not be necessary

for any member of the public to obtain membership in Kitsap Family YMCA in order to use the facilities. As is set forth in this Agreement, supra, at Paragraph 8(a), a daily fee program shall be available to allow non-members to use the facility.

c. In the event Kitsap Family YMCA officers and directors, or by a vote of the general membership, shall determine to employ a person or persons for the benefit, maintenance or administration of said facility and, except to the extent permitted by bonafide occupational qualifications, YMCA agrees as follows:

(i) YMCA shall not discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, national origin, marital status, or the presence of any sensory, mental or physical handicap or age. YMCA shall ensure that applicants are employed and that the employees are treated during employment without regard to race, color, creed, religion, sex, national origin, marital status or the presence of any sensory, mental or physical handicap or age. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection of training.

(ii) YMCA shall, in all solicitations for employees or job orders for employees placed with any employment agency, union or other firm or agency, state that all qualified applicants shall receive consideration for employment without regard to race, color, religion, creed, sex, national origin, marital status or the presence of any sensory, mental or physical handicap or age. The words "Equal Opportunity Employer" in advertisements shall constitute compliance with this Section.

(iii) YMCA shall send to each labor union or representative of works with which it had a collective bargaining agreement or other contract or understanding, a notice advertising the said labor union worker's representative of the commitments under this Section.

(iv) YMCA shall include the provisions of the foregoing Subsections (i), (ii) and (iii) in every subcontract or purchase order for goods or services which fall within the subject matter of this Agreement.

(v) YMCA shall comply with all applicable local, state and federal civil rights laws including, but not limited to, nondiscrimination and affirmative action.

(vi) In the event of noncompliance by YMCA with any of the nondiscrimination provisions of this Agreement, City shall have the right, at its option, to cancel this Agreement in whole or in part.

19. COMPLIANCE WITH THE LAW: YMCA, at its sole expense, shall comply with all laws, orders and regulations of the federal, state and municipal authorities issued pursuant to law which shall impose any duty upon City or YMCA with respect to the property. YMCA shall comply with the requirements of all policies of public liability, fire and other types of insurance that is, at any time, in force with respect to the building and other improvements on the property.

20. SURRENDER UPON TERMINATION: At the expiration of this Agreement, YMCA shall surrender the property to City. YMCA shall remove any personal property and fixed assets in accordance with these covenants and shall surrender the premises and improvements in a reasonable and practical condition, ordinary wear and tear excepted.

21. CITY'S RIGHTS/YMCA'S DEFAULT: If the property shall be deserted or vacated or if proceedings are commenced against YMCA in any court under a bankruptcy act for the appointment of a trustee or receiver of YMCA's property either before or after commencement of the Agreement term or if there shall be a default in the payment of the concession fee or any part thereof for more than thirty (30) days after written notice of such default by City, or if there shall be default in the performance of any other covenants, agreements, conditions, rules or regulations herein contained or hereafter established on the part of YMCA for more than thirty (30) days after written notice of such default by City, this Agreement (if City so elects), shall thereupon become null and void, and City shall have the right to re-enter the property, either by force, summary proceedings, surrender or otherwise, and dispossess and remove therefrom YMCA or other occupants thereof, and their effects, without being liable to any prosecution thereof. In such cases, City may, at its option and with the approval of the United States Department of the Interior and National Parks Service, put another party in possession of

the property. If YMCA should notify City that it is borrowing money, then City shall agree to send to any person or firm designated, a copy of any notice required by this Agreement. Any such notice shall specify the name and address to which the notice is to be sent.

22. INTEREST IN PROPERTY: City makes no representation of the title and if, for any reason, City's title to said premises should terminate because of prior rights reserved by the United States Government or other claimant, then all buildings and improvements may be removed from the property by YMCA or its agent within six (6) months from the date of said notice. This Agreement shall terminate and YMCA shall be under no further obligation to pay a concession fee. This Agreement does not create an interest in the land in YMCA.

23. CONDEMNATION: If the property, or any part thereof, is taken by eminent domain, this Agreement shall expire on the date the property is taken. The concession payments shall be apportioned as of that date. YMCA shall be entitled to be reimbursed its pro-rata share of any condemnation award because of loss of buildings or other structures.

24. APPLICABLE LAW; VENUE: This Agreement shall be construed and interpreted in accordance with the laws of the State of Washington. In the event of a dispute, such dispute shall be litigated in the Superior Court of Kitsap County, Washington.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date set forth above.

CITY OF BREMERTON

BY: M. G. Dawkins
MORRIE DAWKINS, Mayor

KITSAP FAMILY YMCA

BY: [Signature]
Chairman of the Board of
Management

UNITED STATES DEPT. OF INTERIOR

BY: [Signature]
Regional Director
National Park Service

NAT'L. ARMED SERVICES YMCA of

ATTEST:

Kathleen L. McCluskey
KATHLEEN L. McCLUSKEY, Clerk

ATTEST:

[Signature]
Secretary

ATTEST:

[Signature]
Secretary

ATTEST:

the USA

BY: Fred D. Carl V Smith
National Executive Director Secretary
Assistant

STATE OF WASHINGTON)

SS

COUNTY OF KITSAP)

ON THIS 28th day of August, 1985, before me, the undersigned Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared MORRIE DAWKINS and KATHLEEN L. McCLUSKEY, Mayor and City Clerk, respectively, of the City of Bremerton, the municipal corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute the said instrument and that the seal affixed is the corporate seal of said corporation.

GIVEN UNDER MY HAND and official seal the day and year first above written.

William H. Broughton
NOTARY PUBLIC in and for the
State of Washington, residing
at Port Orchard

STATE OF WASHINGTON)

SS

COUNTY OF KITSAP)

ON THIS 29th day of August, 1985, before me, the undersigned Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Karl D. Cramer and Dorlene A. Collins, Chairman of the Board and Secretary, respectively, of the Kitsap Family YMCA, the organization that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said organization, for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute the said instrument and that the seal affixed is the seal of said organization.

GIVEN UNDER MY HAND and official seal the day and year first above written.

William H. Broughton
NOTARY PUBLIC in and for the
State of Washington, residing
at Port Orchard

STATE OF Idaho)

SS

COUNTY OF Lake)

ON THIS 30 day of December, 1985, before me, the undersigned Notary Public in and for the State of Idaho, duly commissioner and sworn, personally appeared Fred D. Carl and _____, President and Secretary, respectively, of the National Armed Services YMCA's of the USA, the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute the said instrument and that the seal affixed is the corporate seal of said corporation.

GIVEN UNDER MY HAND and official seal the day and year first above written.

Cathy M. Upton

NOTARY PUBLIC in and for the
State of Washington
residing at Bainbridge Island.

STATE OF Washington)
COUNTY OF King) ss

ON THIS 14th day of August, 1985, before me, the undersigned Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Daniel A. Tolin Jr. and National Park Service, respectively, of the United States Department of the Interior, the organization that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said organization, for the uses and purposes therein mentioned, and on oath stated that ~~they~~ he ~~are~~ authorized to execute the said instrument, ~~and that the seal~~ ~~affixed is the seal of said organization.~~

GIVEN UNDER MY HAND and official seal the day and year first above written.

D. Wilmer Malbon
NOTARY PUBLIC in and for the
State of Washington,
residing at Bellevue.

CORRECT 9/17/86

A PORTION OF THE FOLLOWING DESCRIBED PROPERTY:

Beginning at a concrete monument at the center of Section 12, Township 24 N, Range 1 E, W.M., said center of said Section 12 being approximately at the intersection of the center lines of Schley Boulevard and Twelfth Avenue; thence S 2°01'25" W 1541.81 feet to the true point of beginning; thence S 2°01'25" W 1050.70 feet to a concrete monument, said monument being on the Section line dividing Sections 12 and 13 at a point approximately where the centerline of Schley Boulevard intersects said Section line; thence S 1°18'18" W 242.23 feet, more or less, to the north side of State Secondary Highway No. 303; thence N 70°27'40" W along the northerly side of said Highway 299.68 feet; thence S 19°32'20" W along westerly side of said Highway 50 feet; thence in a northwesterly direction along the northerly side of said Highway on a curve of radius 547.97 feet a distance of 227.32 feet; thence along said Highway N 46°41'40" W 136.28 feet; thence N 87°52'56" W 7.60 feet; thence along the northeasterly side of said Highway N 46°41'40" W 163.21 feet; thence N 43°18'40" W 58.43 feet, more or less, to a point on the back of the sidewalk along the south side of Homer R. Jones Drive; thence across said drive N 23°05'29" E 43 feet, more or less, to a point on the back of the sidewalk on the north side; thence along the back of the sidewalk on a curve to the right on a radius of 48.65 feet a distance of 44.42 feet; thence along back of sidewalk N 14°35'41" W 72.06 feet; thence along back of sidewalk on a curve to the right with a radius of 461.5 feet, a distance of 216.78 feet; thence along back of sidewalk N 12°19'07" E 105.56 feet; thence along back of sidewalk on a curve to the right with a radius of 651.5 feet a distance of 227.47 feet; continue along back of sidewalk on a curve to the right with radius 431.31 feet a distance of 273.79 feet; thence N 68°41'39" E 216.26 feet crossing Homer R. Jones Drive at intersection with Schley Boulevard; thence on a curve to the left with a radius of 427.72 feet a distance of 63.23 feet; thence S 29°46'35" E 78.5 feet; thence S 87°58'35" E 139.5 feet, more or less to true point of beginning, containing approximately 18.1 acres.

SAID PORTION DESCRIBED AS FOLLOWS:

Beginning at a concrete monument at the center of Section 12, Township 24N Range 1E, W. M., said center of said Section 12 being approximately at the center lines of Schley Blvd. and Twelfth Ave; Thence S 2° 01' 25" W 1721.81 feet; thence N 87°58'35" W 110 feet to the True Point of Beginning; thence continuing N 87° 58' 35" W 230 feet; thence S 45° 02' 55" W 265.18 feet; thence S 44° 57' 05" E 56 feet; thence S 02° 01' 25" W 167.93 feet; then S 87° 58' 35" E 370 feet more or less to a point S 2° 01' 25" W of the true point of beginning; thence N 2° 01' 25" E 400 feet more or less to the true point of beginning. Containing 3.20 acres.

Exhibit "A"

9-17-86

EXISTING POOL BUILDING

S 45° 02' 55" W
265.18 FT

PHASE 2

CONC WALK

PHASE ONE

PHASE 2

CONCRETE WALK

23

DRIVE

JONES

370 ±

EXISTING CURB/GUTTER AND SIDEWALK
EXISTING CONCRETE STREET

7 87 58 25

FUTURE

21

EXISTING TREES AND SHRUBS

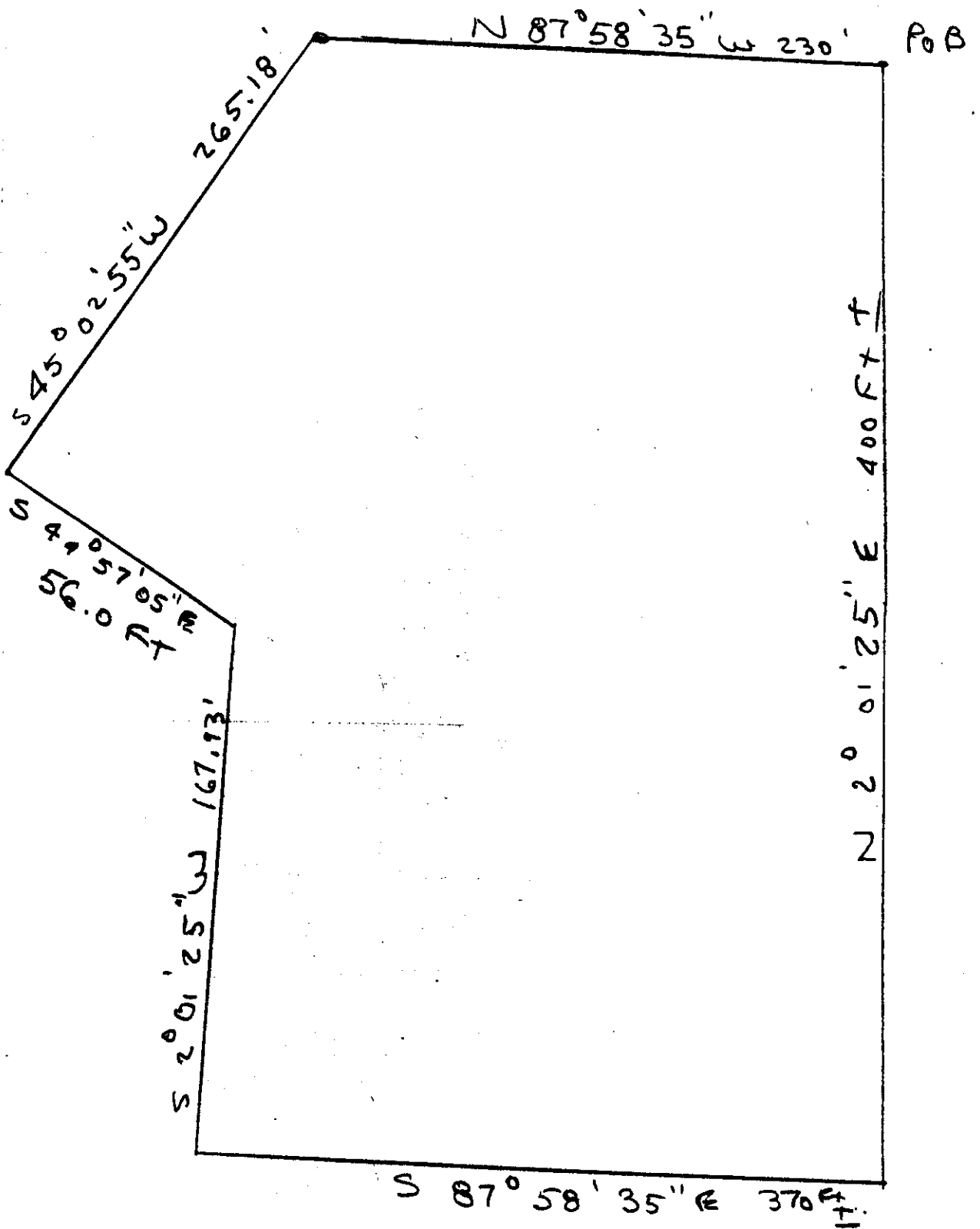
SHRUBS

PROPERTY LINE

S 02° 01' 25" W
167.93

697 58 35 E

205.18
60



3.16
10
20